

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

**B.A. CONSTRUCTION & MANAGEMENT,
INC., a Michigan corporation, and B.A. REAL
ESTATE, LLC, a Michigan limited liability
company,**

Plaintiff,

Case No. 04-73910

v.

Hon. Paul D. Borman

**KNIGHT ENTERPRISES, INC. a Michigan
corporation,**

Defendant

SALEH & ASSOCIATES, PLC
DOUGLAS R. SWATOSH (P66199)
Counsel for Plaintiffs
921 Howard
Dearborn, Michigan 48124
(313) 724-8080

DAVID E. GHANNAM (P43407)
Counsel for Knight Enterprises, Inc.
13530 Michigan Avenue, Suite 322
Dearborn, Michigan 48126
(313) 945-6161

**ORDER COMPELLING STATE TREASURER ROBERT J. KLEIN AND THE
DEPARTMENT OF TREASURY FOR THE STATE OF MICHIGAN TO PRODUCE
CERTAIN DOCUMENTS BY FEBRUARY 21, 2007 IF NOT PROVIDED, THEN THE
COURT HAS SCHEDULED A HEARING FOR FEBRUARY 22, 2007 AT 2:00 PM FOR
BOTH PARTIES AND THE STATE OF MICHIGAN TO BE PRESENT**

WHEREAS, The Plaintiff, B.A. Construction & Management, through its president Dr. Belal Abdallah having contacted the Department of Treasury on November 22, 2006 in an effort to obtain copies of certain documents filed with the Department of Treasury for the State of Michigan relative to the reported sales of B.A. Construction & Management, Inc. from January 2003 through December 2005 (the "Requested Information");

WHEREAS, Representatives of the Department of Treasury having informed Dr. Belal Abdallah on November 22, 2006 that the Requested Information would be mailed to him within seven to ten days, it was never mailed;

WHEREAS, the counsel for B.A. Construction and Management, Inc. have filed a power of attorney with the Department of Treasury for the State of Michigan via facsimile on January 11, 2007, which was lost by the Department of Treasury;

WHEREAS, the counsel for B.A. Construction & Management, Inc. having filed a second power of attorney with the Department of Treasury for the State of Michigan via facsimile on January 22, 2007, which the Department of Treasury has on record;

WHEREAS, the counsel for B.A. Construction & Management, Inc. having spoken to representatives of the Department of Treasury for the State of Michigan on January 22, 2007 for the third time regarding B.A. Construction & Management, Inc.'s request for copies of the Requested Information, at which point in time he was informed for the first time that any request for documents would need to be made in writing, and then upon receipt of the written request it would take approximately 10 to 14 days to process the request, thus indicating that the documents would be received by B.A. Construction & Management, Inc. by February 6, 2007;

WHEREAS, the counsel for B.A. Construction & Management, Inc. having filed a written request for the Requested Information on January 22, 2007;

WHEREAS, the counsel for B.A. Construction & Management, Inc. having spoken to a representative of the Department of Treasury for the State of Michigan on January 30, 2007, in which he was informed that it takes 30 days alone for the written request for copies of the documents to even be placed in the file, and then it could take up to another 30 days to process the request;

WHEREAS, a subpoena having been issued on January 31, 2007 to the Custodian of the Records for the State of Michigan Department of Treasury directing the Department of Treasury to produce the Requested Information (a copy of the subpoena is attached hereto as *Exhibit A*);

WHEREAS, the State of Michigan Department of Treasury having failed to produce the Requested Information by February 7, 2007;

WHEREAS, the counsel for the Plaintiffs, counsel for the Defendant and this Honorable Court having previously relied on the representations made on November 22, 2006, January 11, 2007 and January 22, 2007 regarding the time frame for which copies of the documents would be produced scheduled the trial in this matter for the March 13, 2007 date;

NOW THEREFORE IT IS HEREBY ORDERED

- (1) That State Treasurer Robert J. Klein and the Department of Treasury shall produce copies of the documents specified in *Exhibit B* attached to this order on or before February 21, 2007; said documents shall be delivered to Saleh & Associates, PLC, 921 Howard Street, Dearborn, Michigan 48124, Attention: Douglas R. Swatosh, Esq.
- (2) That if the documents are not produced by February 21, 2007, a hearing will be held in the Court on February 22, 2007 at which time the parties and the Michigan State Department of the Treasury shall be present.



PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: 2-13-07
Detroit, Michigan

JOB #: 15464-1 RUSH

United States District Court

Eastern District of Michigan



Subpoena in a Civil Case and Return of Service Form

Plaintiff(s)

BA CONSTRUCTION AND MANAGEMENT, INC., ET AL
Plaintiff,

Defendant(s)

V KNIGHT ENTERPRISES, INC.
Defendant.

TO: CUSTODIAN OF THE RECORDS
ATTN: DISCLOSURE OFFICE / ELIZABETH CHANEY
STATE OF MICHIGAN, DEPARTMENT OF TREASURY.
430 W. ALLEGAN
LANSING MI 48022

CASE NO. 2:04-CV-3910

JUDGE

SUBPOENA FOR ATTENDANCE AT TRIAL
 SUBPOENA FOR ATTENDANCE AT A DEPOSITION
 DOCUMENT PRODUCTION REQUEST ONLY
 PROPERTY INSPECTION REQUEST ONLY

COMMAND TO APPEAR	YOU ARE HEREBY COMMANDED to appear at the place, date and time specified below to give testimony in the above case, and, if so indicated, to bring certain documents with you.	
Place:	Date:	Time:
	<input type="checkbox"/> APPEARANCE WITH DOCUMENTS (SEE DESCRIPTION BELOW) <input type="checkbox"/> APPEARANCE WITHOUT DOCUMENTS	
COMMAND FOR DOCUMENTS *** OR MAIL RECORDS	YOU ARE HEREBY COMMANDED to have the following documents, objects or things delivered to the place listed below, or allow the inspection of the below-listed property at the date and time specified. ***or mailed	
Place: BEFORE A NOTARY PUBLIC AT: RECORDS DEPOSITION SERVICE, INC. 27355 W. ELEVEN MILE ROAD P.O. BOX 5054 SOUTHFIELD, MI 48086-9877	Date: February 7, 2007	Time: 10:00 A.M.

Description of documents/items to be produced or property to be inspected:
 [FROM 2003 TO 2005 ONLY] ALL SALES RECORDS REGARDING THE SALE OF GASOLINE/PETROLEUM PRODUCTS PERTAINING TO: BA CONSTRUCTION AND MANAGEMENT, INC. 15400 MICHIGAN AVE., STE. 1 DEARBORN MI **CORP. ID NO: 22112C** **TAX ID NO: 38-3632723**

Please call (248) 357-3330 for any questions regarding this subpoena.

This subpoena is issued by (name, address and telephone number of attorney):
 DOUGLAS R SWATOSH
 LAW OFFICES OF DOUGLAS SWATOSH
 921 HOWARD STREET STE 1
 DEARBORN MI 48124

Date of execution
January 31, 2007

Signature of issuing attorney/court officer

Plaintiff Defendant

EXHIBIT B

1. Copies of B.A. Construction & Management, Inc.'s monthly sales tax returns filed with the state of Michigan from January 2003 through December 2005;
2. Any sales or use tax returns filed by B.A. Construction & Management, Inc. from January 2003 through December 2005 reflecting gasoline purchases, supplier's names and quantities purchased.